

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

VALLEY HEALTH SYSTEM LLC d/b/a  
SPRING VALLEY HOSPITAL MEDICAL CENTER  
and CENTENNIAL HILLS HOSPITAL MEDICAL CENTER  
and DESERT SPRINGS HOSPITAL MEDICAL CENTER  
and VALLEY HOSPITAL MEDICAL CENTER  
and SUMMERLIN HOSPITAL MEDICAL CENTER LLC  
d/b/a SUMMERLIN HOSPITAL MEDICAL CENTER

and

KATHY MORRIS, an Individual

Case 28-CA-123611

and

KATRINA ALVAREZ-HYMAN, an Individual

Case 28-CA-127147

**NOTICE TO SHOW CAUSE<sup>1</sup>**

On May 5, 2016, the National Labor Relations Board issued a Decision and Order<sup>2</sup> finding that the Respondents violated Section 8(a)(1) of the National Labor Relations Act by (1) maintaining a mandatory individual arbitration policy in their Alternative Resolutions of Conflicts Program that prohibited class and collective actions and (2) maintaining certain rules in the Respondents' Employee Handbook.

On June 29, 2018, the United States Court of Appeals for the Ninth Circuit denied enforcement, in light of *Epic Systems Corp. v. Lewis*, 584 U.S. \_\_\_, 138 S. Ct. 1612 (2018), of the Board's Order concerning the Respondents' arbitration policy. The court remanded the findings concerning the Employee Handbook rules back to the Board.

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<sup>1</sup> Member Emanuel is recused and took no part in the consideration of this case.

<sup>2</sup> 363 NLRB No. 178 (2016).

In finding that the Respondents unlawfully maintained the disputed work rules, the Board, and Administrative Law Judge Lisa D. Thompson in her March 18, 2015 decision that the Board affirmed in part, relied on the “reasonably construe” prong of the Board’s decision in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004) (*Lutheran Heritage*). Recently, the Board overruled the *Lutheran Heritage* “reasonably construe” test and announced a new standard that applies retroactively to all pending cases. *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14-17 (2017).

Accordingly, the Board issues the following notice to show cause why this proceeding should not be remanded to the judge for further proceedings in light of *Boeing*, including, if necessary, the filing of statements, reopening the record, and issuance of a supplemental decision.

**NOTICE IS GIVEN** that cause be shown, in writing, filed with the Board in Washington, D.C., on or before November 23, 2018 (with affidavit of service on the parties to this proceeding), why this case should not be remanded to the administrative law judge for further proceedings consistent with the Board’s decision in *Boeing*, including reopening the record if necessary. Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C., November 9, 2018.

By direction of the Board:

/s/ Roxanne L. Rothschild

Acting Executive Secretary